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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,203

05/22/2006

Johan K. Fremerey

26202.460

9283

28410

7590

06/23/2008

BERENATO, WHITE & STAVISH, LLC

6550 ROCK SPRING DRIVE

SUITE 240

BETHESDA, MD 20817

EXAMINER

MUSLEH, MOHAMAD A

ART UNIT

PAPER NUMBER

2832

MAIL DATE

DELIVERY MODE

06/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,203

Applicant(s)

FREMEREY, JOHAN K.

Examiner

MOHAMAD A. MUSLEH

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **06/17/2008** has been entered.

Claim Objections

1. **Claim 1** is objected to because of the following informalities:
 - a. The limitation "...wherein the plurality of spaced apart segments..." is more proper to be [wherein the plurality of **the** spaced apart segments].
 - b. The limitation "...Wherein the plurality of spaced apart segments are not in contact with the adjacent segments..." is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, but instead the specification broadly support this limitation in a way that will be understood as the segments may or may not touch each other, see [paragraphs 0006 and 0009].

c. The limitations "...said segments are **spaced apart** from one another at said **at least one location**...", and "...wherein the plurality of spaced apart segments **are not in contact** with the **adjacent segments**..." are a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation which is the narrower statement of the range/limitation, and this is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country, in public use, or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-6** are rejected under **35 U.S.C. 102(b)** as being anticipated by **Suwa JP 360-252820A [Suwa]**.
3. Regarding **claim 1**, at **[figs. 1-2]** **Suwa** teaches at least one annular permanent magnet **[4/9]** divided in a circumferential direction thereof at least one location **[7/13]** into a plurality of segments **[6/12]**, the segments **[6/12]** spaced apart from one another at the at least one location **[7/13]**; and an annular binding band **[10/11]** surrounding the at least one annular permanent magnet **[4/9]**, and wherein the plurality of spaced apart

segments are not in contact with the adjacent segments [see pages 2 and 3 of this action].

4. Regarding **claim 2**, wherein the location [7/13] is embodied as a radially extending slit [fig. 2].
5. Regarding **claim 3**, wherein the permanent magnet [4/9] is divided and spaced apart at multiple locations [7/13].
6. Regarding **claim 4**, wherein the locations [7/13] are distributed regularly around a periphery [figs. 1 and 2] of the permanent magnet [4/9].
7. Regarding **claim 5**, wherein the bearing element comprises multiple permanent magnets [4/9] arranged concentrically with one another, all of which are divided at least one location [7/13] and spaced apart there.
8. Regarding **claim 6**, wherein the locations [7/13] at which the permanent magnets [4/9] are divided and there spaced apart are offset from one another in the circumferential direction [figs. 1 and 2].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 7** is rejected under **35 U.S.C. 103(a)** as being unpatentable over **Suwa** as applied to claim 1 above, and further in view of Koenig US 6,250,577 B1 [Koenig].

10. Regarding Claim 7, Suwa discloses the claimed invention except for that the annular binding band is made from a carbon-fiber material. Koenig teaches that it is known to use the carbon-fiber material as an insert or as binding band as set forth at [c. 2, l. 30-37 and c. 3, l. 6-12]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify **Suwa's** bearing composed of a carbon-fiber material insert or binding as taught by **Koenig** since carbon-fiber materials are known to be used as bearing surface as disclosed in the [abstract]. Moreover, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MOHAMAD A. MUSLEH** whose telephone number is ((571)272-9086. The examiner can normally be reached on M-F (8:30-5:00 Est. Time) 1st Friday Off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Elvin G. Enad** can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anh T. Mai/

Primary Examiner, Art Unit 2832

***/Mohamad A Musleh/
Examiner, Art Unit 2832***